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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,307	07/14/2003	Stephen P. Rukavina	RYLZ 2 00924	6302
7590	01/13/2006		EXAMINER	TILL, TERENCE R
Jay F. Moldovanyi, Esq. Fay, Sharpe, Fagan, Minnich & McKee, LLP 7th Floor 1100 Superior Avenue Cleveland, OH 44114-2518			ART UNIT	PAPER NUMBER
			1744	
DATE MAILED: 01/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/619,307	RUKAVINA ET AL.	
	Examiner Terrence R. Till	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5,7-21,23-26 and 30-33 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-5 and 7-17 is/are allowed.
- 6) Claim(s) 18-21,23-26 and 30-33 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Response to Amendment

1. The indicated allowability of claims 21, 22 (now incorporated into claim 18) and 29 (now incorporated into 25) are withdrawn in view of the newly discovered reference(s) to Japanese patent to Ohara. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 18-21, 25, 26 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slone in view of Japanese patent to Ohara.

6. The publication to Slone discloses a vacuum system for a motor vehicle comprising: a receptacle 24 mounted to a motor vehicle; a casing 90 selectively mountable to the receptacle, wherein the receptacle comprises a console mounted to a wall of the vehicle within a passenger compartment of the vehicle, a power cord 122 and wherein the receptacle defines a cavity and wherein the casing 90 is slidably received within the cavity. Slone discloses that the casing is actually a hand held vacuum, but does not go into the details of it. The Japanese patent to Ohara discloses (see figures 1 and 5) a hand held vacuum having a source of suction 56,57 carried by the casing, a dirt container 32 and filter 31, carried by the casing, and a tangential inlet 37 and axial outlet creating a cyclonic swirling action around the filter 31. The filter protrudes into the dirt container, the dirt container is removable from the casing with the filter selectively mounted in the dirt container, the filter having a first end wall (to where reference character 31 points) and a second end wall aligned with the wall of the dirt container at the opening of the dirt container. Ohara also discloses a gasket 33 located adjacent the second end wall of the dirt container. Therefore, because these two hand-held vacuum cleaners were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the vacuum cleaner of Slone for the vacuum cleaner of Ohara as both perform the same function.

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1. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slone, as modified by Japanese patent to Ohara, as applied to claim 18 above, and further in view of Zahuranec et al.
2. Slone, as modified by Ohara, does not disclose of the filter comprising a pleated planar material. The patent to Zahuranec et al. discloses a hand-held vacuum that has a pleated planar filter 42. It would have been obvious at the time the invention was made to substitute the filter of Slone, as modified by Ohara, with a filter comprising a pleated planar material in view of the teaching of Zahuranec et al. in order to expose more surface area of the filter to the dirt-laden airstream. With respect to claim 24, Zahuranec et al. does not disclose the filter is approximately cylindrical in shape. However, It would have been an obvious matter of engineering choice to modify the filter of Zahuranec et al. to be cylindrical, since such a modification would have involved a mere change in the shape or form of a component. A change in shape or form is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1976).

Allowable Subject Matter

3. Claims 1-5 and 7-17 are allowed.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Steiner et al., Maruyama et al. and Japanese patent to Ito et al. all disclose hand held cyclonic-type vacuum cleaners.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, R. Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Terrence R. Till
Primary Examiner
Art Unit 1744

trt